

Remarks

As an initial matter, Applicant respectfully requests entry of the foregoing amendment, which is being submitted in view of the Examiner's comment in paragraph 8 of the subject Action.

In the subject Action, the Examiner rejected claims 1 and 3-8 as being anticipated by and/or obvious in view of the cited patent to Eschenbach. Applicant respectfully traverses this rejection and requests reconsideration in view of the above amendment and/or the reasons set forth below.

With or without any additional claim of priority, Applicant questions whether the Eschenbach patent can be considered prior art under either 35 U.S.C. 102(a) or 35 U.S.C. 102(b), since (a) U.S. Pat. No. 5,707,321 (filed on June 30, 1995) provides conclusive evidence that Applicant invented the claimed invention prior to the filing date of the Eschenbach patent (September 9, 1996); and (b) the filing date of this application (April 23, 1998) precedes the issue date of the Eschenbach patent (August 4, 1998).

In paragraph 8 of the subject Action, the Examiner noted that Applicant has not provided a substitute Declaration to claim the benefit of U.S. Patent Application Serial No. 08/497,377. Submitted herewith is a Substitute Declaration of Inventorship and Power of Attorney, which claims the benefit of both the '377 application (the parent to 08/914,206) and United States Patent Application Serial No. 08/535,566 (the parent to 09/030,133).

Finally, the Examiner rejected claims 1-9 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of U.S. Patent Nos. 5,938,570, 5,897,463, and 5,707,321. Submitted herewith are both a Terminal Disclaimer and payment of the associated fee.

In conclusion, Applicant respectfully requests entry of the above amendment and reconsideration and allowance of this application. The Examiner is always welcome to contact the undersigned representative of Applicant to discuss any matter regarding this application.

Respectfully submitted,

MAKUL  
Mark A. Krull  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT

Applicant: Maresh  
Title: EXERCISE METHODS AND APPARATUS

A Continuation In Part of both:

Applicant:	Maresh	Art Unit:	3764
Serial No:	08/914,206	Examiner:	Crow
Filed:	08/19/97		
Title:	FOUR BAR EXERCISE MACHINE		

Applicant:	Maresh	Art Unit:	3764
Serial No:	09/030,133	Examiner:	Crow
Filed:	02/25/98		
Title:	SIX BAR EXERCISE MACHINE		

SUBSTITUTE DECLARATION OF INVENTORSHIP AND POWER OF ATTORNEY

As the sole inventor named in the above-identified patent application, the specification of which is being filed together herewith, I hereby declare that:

My residence, citizenship, and post office address are as stated below;

I am the sole inventor of the claimed invention;

I have reviewed and understand the contents of the above-identified patent application, including the claims;

I believe I am the original and first inventor of the subject matter which is claimed in the above-identified patent application;

I believe the above-identified patent application discloses subject matter entitled to the filing dates of U.S. Patent Application Serial No. 08/914,206, filed on August 19, 1997 (now U.S. Pat. No. 5,897,463), and its parent application, U.S. Patent Application Serial No. 08/497,377, filed on June 30, 1995 (now U.S. Pat. No. 5,707,321); and U.S. Patent Application Serial No. 09/030,133, filed on February 25, 1998 (now U.S. Pat. No. 6,083,143), and its parent application, U.S. Patent Application Serial No. 08/535,566, filed on September 28, 1995 (now U.S. Pat. No. 5,725,457); and also discloses subject matter entitled to the

filing dates of U.S. Provisional Application Serial Nos. 60/044,955, 60/044,957, 60/044,959, 60/044,961, 60/044,962, 60/044,963, all of which were filed on April 26, 1997, and U.S. Provisional Application Serial No. 60/044,026, which was filed on May 5, 1997;

I acknowledge the duty to disclose information which may be material to the examination of the above-identified patent application in accordance with 37 C.F.R. 1.56(a), including information which is known to be material to patentability and became available between the filing date of the above-identified applications and the filing date of this application; and

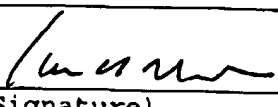
All statements made herein of my own knowledge are true, and all statements made on information and belief are believed to be true; and these statements are made with the knowledge that willful false statements and the like are punishable by fine and/or imprisonment under Section 1001 of Title 18 of the United States Code, and that willful false statements and the like may jeopardize the validity of the above-identified patent application and any resulting patent.

I hereby appoint Mark A. Krull, Reg. No. 34,205, as my representative in the above-identified patent application, with full power to handle all matters regarding said application; and I request that all correspondence be directed to him at the address and/or telephone number set forth below:

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